

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CENTER FOR POPULAR DEMOCRACY
ACTION and CITY of NEWBURGH,

Plaintiffs,

-against-

BUREAU OF THE CENSUS; STEVEN
DILLINGHAM, Director, Bureau of the Census;
UNITED STATES DEPARTMENT OF
COMMERCE; and WILBUR ROSS, Secretary of
Commerce,

Defendants.

ALVIN K. HELLERSTEIN, U.S.D.J.: X

**ORDER GRANTING
DEFENDANTS' MOTION TO
DISMISS AND DENYING
PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION**

19 Civ. 10917 (AKH)

**USDC SDNY
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This suit is one of several to challenge aspects of the above-named Defendants' oversight of the 2020 decennial Census. Plaintiffs—an advocacy organization focused on, *inter alia*, the accuracy of the Census; and a municipality—contend that Defendants' plans for making an enumeration of the population include several arbitrary and capricious decisions that will lead to a differential undercount of persons of color, lower income persons, and other “hard-to-count” communities, in violation of the Administrative Procedure Act, 5 U.S.C. §§ 500 *et seq.*, and the Enumeration Clause of the Constitution, U.S. Art. I § 2 cl. 3. Now before me are two competing motions: Defendants' motion to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6); and Plaintiffs' motion seeking a preliminary injunction pursuant to Federal Rule of Civil Procedure 65. *See* ECF Nos. 38, 47. I held a hearing today on both motions, and for the reasons stated on the record and incorporated in this order, Defendants' motion to dismiss is granted and Plaintiffs' motion for a preliminary injunction is denied.

The Clerk is directed to terminate the open motions (ECF Nos. 38, 47) and mark
the case closed.

SO ORDERED.

Dated: March 18, 2020
New York, New York



ALVIN K. HELLERSTEIN
United States District Judge